



NATIONAL COMMUNICATIONS SYSTEM

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FEDERAL COMMUNICATIONS COMMISSION
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FILE

Donna M. Searcy
Secretary
Federal Communications Commission
1919 M Street N.W.
Washington, D.C. 20554

Re: Common Carrier Docket No. 92-166

Dear Ms. Searcy:

By Public Notice released August 7, 1992 in the referenced docket, the Commission solicited Comments regarding the establishment of an advisory committee to negotiate proposed regulations defining the technical rules appropriate to the provision of mobile-satellite services (MSS) in specified frequency bands. This is to encourage the use of an advisory committee for that purpose and to nominate a member of the staff of the National Communications System (NCS) to serve thereon.

Regulatory negotiation, utilizing a federal advisory committee, seems a fitting method to resolve what are now conflicting views and technological differences on the provision of MSS. Not every potential provider can possibly be given carte blanche to proceed given the limitations of frequency and conflicting uses intended. Hence, the Commission must adopt rules to successfully implement MSS. As Congress found in adopting the Negotiated Rulemaking Act¹, adversarial rulemaking deprives the affected parties and the public of the benefits of face-to-face negotiations and cooperation in developing and reaching agreement on a rule and makes it more likely that the affected parties will resist enforcement or challenge such rules in court. The time frame proposed by the Commission for the submission of the advisory committee's recommendations (March 1, 1993), and assuming consensus, would undoubtedly result in rules being adopted far quicker than if adversarial rulemaking were employed. MSS could become a reality, regulatory considerations having been resolved.

The Commission sought comment as well on its identification of the issues to be addressed and incorporated into the proposed rules and whether the interests and potential participants have been adequately identified. While the NCS agrees with the issues identified, it is believed that one significant group has been omitted from the possible affected parties and thus from the list of participants as well. The possible affected parties are identified by the Commission as applicants to provide MSS and existing users of the bands proposed for its use. There is no recognition that potential users of MSS could be affected parties.

¹Pub. L. 101-648, November 29, 1990, 104 Stat. 4976, Section 2

Noted and rec'd
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Moreover, as a subgroup of users, the NCS would appear to stand alone in representing the National Security/Emergency Preparedness (NS/EP) interests of the country.

As the Commission is aware, since it is active in NCS affairs, the NCS was established by Executive Order No. 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984. It consists of an administrative structure involving the Executive Agent (the Secretary of Defense), Committee of Principals, Manager and the telecommunications assets of the 20 Federal agencies represented on the Committee of Principals. There are 23 participating agencies in all, including the Commission. Most of those telecommunications assets are leased from carriers, and the NCS has determined that MSS is a service that has potential for integration into NS/EP planning. It is thus vitally concerned with the technical rules which will govern the provision of MSS and believes that an NS/EP users' interest would benefit the work of the advisory committee.

The nominee to represent the NCS on the advisory committee is Mr. Victor Sparrow. Mr. Sparrow is a member of my staff, and is an electrical engineer with a bachelors and a masters degree. It is proposed that he represent the interests of NS/EP users. As a member of my staff, I can assure that Commission that he is authorized to represent those interests and that he will participate in good faith in the development of the rules under consideration. Already set forth above are the reasons why the potential participants named by the Commission (all non-users) do not adequately represent the interests of NS/EP users.

This proposed effort by the Commission is a worthy one, one likely to lead to a more timely resolution of the regulatory issues associated with MSS. As a potential user of the service, the NCS believes it appropriate that it be given the opportunity to participate in the activities of the advisory committee established to address those issues.

Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "B. E. Morris", with a stylized, flowing script.

B. E. MORRISS
Deputy Manager